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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 8:08-cr-00323-T-23TCW
18 U.S.C. § 1962(d)
18 U.S.C. § 1959(a)(1)
18 U.S.C. § 1512(k)
18 U.S.C. § 1513(f)
18 U.S.C. § 1963
18 U.S.C. § 981(a)(1)(C)
28 U.S.C. § 2461(c)
21 U.S.C. § 853(p)

JOHN A. BURKE,
JAMES V. CADICAMO,
DAVID D'ARPINO,
MICHAEL D. FINNERTY,
GUY T. PEDEN,

Defendants.

INDICTMENT

The Grand Jury charges:

COUNT ONE
(RICO Conspiracy - 18 U.S.C. § 1962(d))

A. Introduction

At times relevant to this Indictment:

1. The Gambino Organized Crime Family of La Cosa Nostra (the "Gambino Crime Family") was an organized criminal group that operated in the State of New York, the State of New Jersey, the State of Pennsylvania, the Middle District of Florida, the Southern District of Florida, and elsewhere. The Gambino Crime Family was supervised and controlled by its hierarchy located in New York, and was one "family" in a nation-wide criminal organization commonly referred to as "La Cosa Nostra," the "Mafia," and "this thing of ours."

SEALED

2. The Gambino Crime Family is a secret criminal organization. The members and associates of the Gambino Crime Family are united by their common criminal interests. While the membership of the Gambino Crime Family changed during the period of time charged in this indictment, and not all members and associates pursued each unlawful end, the general structure of the Gambino Crime Family remained intact.

3. The Gambino Crime Family operated through groups of individuals headed by "captains," who were also referred to as "skippers," "caporegimes," "capodecinas," and "capos." These groups, which were sometimes referred to as "crews" and "decinas," consisted of "made" members of the Gambino Crime Family. Made members of the Gambino Crime Family were also referred to as "soldiers," "friends of ours," "good fellows," and "buttons."

4. Made members of the Gambino Crime Family were aided in their criminal endeavors by other trusted individuals, known as "associates," who sometimes were referred to as "connected" or identified as being "with" or "around" a certain member, and who operated under the "umbrella" of the Gambino Crime Family. Associates participated in the various activities of the Gambino Crime Family crews.

5. Each captain was responsible for supervising the criminal activities of his crew and providing crew members and associates with support and protection. In return, the captain typically received a share of the proceeds earned through the criminal activities of each of the crew's members and associates, which share was sometimes referred to as "tribute."

6. Above the captains was the administration, which was typically comprised of the three highest-ranking members of the Gambino Crime Family. The head of the Gambino Crime Family was known as the "boss." The boss was ordinarily assisted by an "underboss" and a counselor, or "consigliere." With the assistance of the underboss and consigliere, the boss was responsible for, among other tasks, setting policy, resolving internal disputes between high-ranking members and associates of the Gambino Crime Family, resolving external disputes between high-ranking members and associates of the Gambino Crime Family and members and associates of other criminal organizations, and approving all significant actions taken by members and associates of the Gambino Crime Family, including murder.

7. At various times relevant to this Indictment, members of the Gambino Crime Family were temporarily appointed to serve or act as boss, underboss, consigliere, or captain in place of another member holding that position. Whenever this occurred, the member holding the temporary appointment would function in an "acting" capacity for the other member, who continued to hold the "official" position in the Gambino Crime Family. In addition, at various times relevant to this Indictment, a group of high-ranking members of the Gambino Crime Family served on a ruling panel or committee, which assisted and, at times, made decisions with, or on behalf of, the boss.

8. John A. Gotti, also known as "John, Jr.," and "Junior," the son of John J. Gotti, was an associate, soldier, captain, and *de facto* boss in the Gambino Crime Family, as well as a member of a ruling committee formed in the early 1990's to assist in the administration of the Gambino Crime Family.

9. Eugene Gotti, also known as "Gene Gotti," a brother of John J. Gotti and an uncle of John A. Gotti, was a soldier and captain in the Gambino Crime Family.

10. Peter Gotti, also known as "Pete Gotti," a brother of John J. Gotti and an uncle of John A. Gotti, was a soldier, captain, and boss in the Gambino Crime Family.

11. Ronald J. Trucchio, also known as "Ronnie One Arm," was an associate, soldier, and captain in the Gambino Crime Family.

12. Charles Carneglia, also known as "Charlie Canig," was an associate and soldier in the Gambino Crime Family.

13. John Carneglia, also known as "Johnny Canig," was an associate and soldier in the Gambino Crime Family.

14. John E. Alite was an associate of the Gambino Crime Family who, at times relevant to this Indictment, was with or around John A. Gotti.

15. Kevin M. McMahon was an associate of the Gambino Crime Family who, at various times relevant to this Indictment, was with or around Charles Carneglia and John Carneglia.

16. The Gambino Crime Family members and associates engaged in conduct designed to prevent government detection of their roles and identities, their illegal activities, and the proceeds of their activities. Among other such conduct, members and associates of the Gambino Crime Family often met or congregated in commercial businesses or "social clubs," which were considered secure, to plan and discuss matters related to their criminal activity. Such businesses or "social clubs" included, but were not limited to, pizzerias, bars/pubs, and restaurants located in and around New York City, as well as other private clubs.

B. The Enterprise

17. At times relevant to this Indictment,

**JOHN A. BURKE,
JAMES V. CADICAMO,
DAVID D'ARPINO,
MICHAEL D. FINNERTY, and
GUY T. PEDEN,**

defendants herein, along with John E. Alite, Michael Malone, Pasquale J. Andriano, and other persons known and unknown to the Grand Jury, operating at times under the influence and control of the Gambino Crime Family, constituted an "Enterprise," as that term is defined in Title 18, United States Code, Section 1961(4) (the "Criminal Enterprise"), that is, a group of individuals associated in fact although not a legal entity, which Criminal Enterprise engaged in, and the activities of which affected, interstate and foreign commerce. The Criminal Enterprise constituted an ongoing organization, the members and associates of which functioned as a continuing unit for a common purpose of achieving the objectives of the Criminal Enterprise.

18. The principal purpose of the Criminal Enterprise was to generate money for its members through the commission of various criminal activities, including criminal acts involving the felonious manufacturing, importing, receiving, concealing, buying, selling and otherwise dealing in narcotics and other dangerous drugs, extortion, armed and unarmed robbery, armed home invasions, illegal gambling, extortionate credit transactions, theft, and bribery. The members of the Criminal Enterprise also furthered the Criminal Enterprise's illegal activities by threatening and causing economic injury

and using and threatening to use various levels of physical violence, ranging from simple assault to murder.

19. The Criminal Enterprise's activities were originally based in Queens County, New York, but the members operated in other areas of New York City, the State of New Jersey, the State of Pennsylvania, the Middle District of Florida, the Southern District of Florida, and elsewhere. While the membership of the Criminal Enterprise churned and fluctuated during the period of time charged in this indictment, and not all members pursued each unlawful end, the structure and purpose of Criminal Enterprise remained the same.

C. The Conspiracy

20. From in or about 1983, and continuing thereafter up to and including the date of this Indictment, in the State of New York, the State of New Jersey, the State of Pennsylvania, the Middle District of Florida, the Southern District of Florida, and elsewhere,

**JOHN A. BURKE,
JAMES V. CADICAMO,
DAVID D'ARPINO,
MICHAEL D. FINNERTY, and
GUY T. PEDEN,**

defendants herein, along with others, did knowingly, willfully, and unlawfully combine, conspire, confederate, and agree, together and with each other, and with persons known and unknown to the Grand Jury to violate:

- (a) Title 18, United States Code, Section 1962(c), that is, being persons employed by and associated with the Criminal Enterprise as described above, which Criminal Enterprise engaged in, and the activities of which affected, interstate and foreign commerce, to

conduct and participate, directly and indirectly, in the conduct of the affairs of the Criminal Enterprise through a pattern of racketeering activity as that term is defined in Title 18, United States Code, Sections 1961(1) and (5), as set forth herein in paragraph 21, and through the collection of unlawful debt, as that term is defined in Title 18, United States Code, Section 1961(6), as set forth herein in paragraph 22; and

- (b) Title 18, United States Code, Section 1962(a), that is, to receive any income derived, directly and indirectly, from a pattern of racketeering activity as that term is defined in Title 18, United States Code, Sections 1961(1) and (5), as set forth herein in paragraph 21, and through the collection of unlawful debt, as that term is defined in Title 18, United States Code, Section 1961(6), as set forth herein in paragraph 22, in which the defendant participated as a principal as that term is defined in Title 18, United States Code, Section 2, and to use and invest, directly and indirectly, any part of such income, and the proceeds of such income, in acquisition of any interest in, and the establishment and operation of, any enterprise (hereinafter referred to as an "Investment Enterprise") which engaged in, and the activities of which affected, interstate and foreign commerce.

D. The Pattern of Racketeering Activity

21. The pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and (5), through which the defendants and their co-conspirators agreed to conduct and participate in the conduct of the affairs of the Criminal Enterprise, and which generated income that was used and invested, at least in part, by the defendants and their co-conspirators for the acquisition, establishment, and/or operation of an Investment Enterprise, consisted of multiple acts and threats involving:

- (a) Murder, Attempted Murder and Conspiracy to Commit Murder, in violation of New York Penal Law Articles 125, 110 and 105;

(b) Robbery, Attempted Robbery and Conspiracy to Commit Robbery, in violation of Sections 812.13 and 777.04 Florida Statutes, New York Penal Law Articles 160, 110 and 105, Sections 2C:15-1, 2C:5-1, and 2C:5-2 New Jersey Statutes, and Title 18, Pennsylvania Statutes, Section 3701;

(c) Kidnapping, Attempted Kidnapping and Conspiracy to Commit Kidnapping, in violation of New York Penal Law Articles 135, 110 and 105;

(d) Extortion, Attempted Extortion and Conspiracy to Commit Extortion, in violation of Sections 836.05 and 777.04 Florida Statutes and New York Penal Law Articles 155, 110 and 105;

(e) Bribery and Conspiracy to Commit Bribery, in violation of New York Penal Law Articles 200 and 105;

(f) Gambling, in violation of New York Penal Law, Article 225;

(g) Dealing in Controlled Substances and Listed Chemicals, Attempt to Deal in Controlled Substances and Listed Chemicals and Conspiracy to Deal in Controlled Substances and Listed Chemicals, in violation of Sections 893.13 and 777.04 Florida Statutes and New York Penal Law Articles 220, 110 and 105; and acts which are indictable under the following provisions:

(h) Interference with Commerce by Threats and Violence, in violation of Title 18, United States Code, Section 1951;

(i) Interstate Travel in Aid of Racketeering Enterprises, in violation Title 18, United States Code, Section 1952;

(j) Making Extortionate Extensions of Credit, in violation of Title 18, United States Code, Section 892;

- (k) Collection of Extensions of Credit by Extortionate Means, in violation of Title 18, United States Code, Section 894;
- (l) Interstate Transportation of Stolen Property/Money, in violation of Title 18, United States Code, Section 2314;
- (m) Receipt of Stolen Property/Money, in violation of Title 18, United States Code, Section 2315;
- (n) Bribery of Public Officials And Witnesses, in violation of Title 18, United States Code, Section 201;
- (o) Influencing or Injuring Officer or Juror Generally, in violation of Title 18, United State Code, Section 1503;
- (p) Laundering of Monetary Instruments, in violation of Title 18, United States Code, Section 1956; and
- (q) Engaging in Monetary Transactions in Property Derived From Specified Unlawful Activity, in violation of Title 18, United States Code, Section 1957; and
- (r) Offenses involving the Distribution and Possession With Intent to Distribute Controlled Substances, in violation of Title 21, United States Code, Section 841, and Conspiracy to Distribute and to Possess With Intent to Distribute Controlled Substances, in violation of Title 21, United States Code, Section 846.

E. Collection of Unlawful Debt

22. The collection of unlawful debt through which the defendants and their co-conspirators agreed to conduct and participate, directly and indirectly, in the conduct of the affairs of the Criminal Enterprise, and which generated income that was used and invested, at least in part, by the defendants and their co-conspirators for the acquisition, establishment, and/or operation of an Investment Enterprise, consisted of the collection from various individuals of unlawful debts, as that term is defined in Title 18, United States Code, Section 1961(6), that is, debts incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof, and which were incurred in connection with the business of gambling in violation of the law of the United States, a state or political subdivision thereof, and debts which were unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and which were incurred in connection with the business of lending money at a rate usurious under State or Federal law, where the usurious rate was at least twice the lawfully enforceable rate.

F. Method and Means

23. It was part of the conspiracy that each member of the Criminal Enterprise would and did agree to participate in the affairs of the Criminal Enterprise with the knowledge and intent that a Criminal Enterprise member would commit two or more acts of racketeering activity, or participate in the collection of at least one unlawful debt, for and on behalf of the Criminal Enterprise.

24. It was further part of the conspiracy that Criminal Enterprise member John E. Alite would and did act as a leader of the Criminal Enterprise and would and did share criminal proceeds with and/or pay tribute to members of the Gambino Crime Family, including John A. Gotti, Charles Carneglia, and Ronald J. Trucchio.

25. It was further part of the conspiracy that Criminal Enterprise member John E. Alite would and did enrich himself and others through various illegal activities, in that:

(a) John E. Alite would and did plan, organize and participate in the diverse criminal activity perpetrated by the Criminal Enterprise; and

(b) John E. Alite would and did, at various times, invoke the authority and the influence of the Gambino Crime Family to (i) control legal businesses, such as valet parking service businesses, and said businesses related dealings, (ii) control illegal businesses, including but not limited to, the business of illegally dealing in controlled substances, the business of illegal gambling, and the business of collection of unlawful debts, and (iii) create and instill fear in others.

26. It was further part of the conspiracy that Criminal Enterprise members JOHN A. BURKE, JAMES V. CADICAMO, DAVID D'ARPINO, MICHAEL D. FINNERTY, and GUY T. PEDEN, along with Michael Malone, Pasquale J. Andriano, and others, would and did act as members of the Criminal Enterprise, and would and did engage in an array of criminal conduct in the State of New York, the State of New Jersey, the State of Pennsylvania, the State of Florida, and elsewhere, for and on behalf of the Criminal Enterprise and/or to illegally generate income, including murder, robbery, bribery, kidnapping, extortion, gambling, illegal drug trafficking, making extortionate extensions of credit, collecting unlawful debts, illegally influencing jury members, illegally influencing victims and witnesses of criminal conduct, burglary, home invasions, aggravated assaults and batteries, and money laundering.

27. It was further part of the conspiracy that Criminal Enterprise members would and did share criminal proceeds with and/or pay tribute to Criminal Enterprise leader John E. Alite, and others, from criminally derived proceeds.

28. It was further part of the conspiracy that Criminal Enterprise members would and did engage in criminal conduct, such as the threatened and actual use of deadly force and violence, designed to create and maintain fear and dread in others so that the Criminal Enterprise could defend and expand its unlawful dominion and influence in certain geographical areas and over certain:

- (a) legal businesses, such as the business of operating restaurants, the business of operating bars/pubs, the business of providing bar security, and the business of providing valet parking services; and

- (b) illegal businesses, such as the business of illegally dealing in controlled substances, the business of illegal gambling, and the business of collection of unlawful debts.

29. It was further part of the conspiracy that Criminal Enterprise members would and did engage in criminal conduct designed to prevent government detection of Criminal Enterprise members' identities and illegal activities, and the location and amount of any resulting criminal proceeds, as well as criminal conduct designed to obstruct and prevent the prosecution of Criminal Enterprise members. That conduct included a commitment to (1) assaulting and/or murdering persons, particularly members of the Criminal Enterprise and/or members and associates of the Gambino Crime Family, who were perceived as potential witnesses against members of the Criminal Enterprise and/or members and associates of the Gambino Crime Family, (2) corruptly influencing, by bribery and/or threats, victims and witnesses of criminal conduct involving members of the Criminal Enterprise and/or members and associates

of the Gambino Crime Family, (3) corruptly influencing, by bribery and/or threats, jurors in state and/or federal proceedings involving members of the Criminal Enterprise and/or members and associates of the Gambino Crime Family, and (4) providing information, funds, and/or items of personalty to members of the Criminal Enterprise to assist the members in avoiding law enforcement investigative efforts and/or prosecution.

30. It was further part of the conspiracy that Criminal Enterprise members, to conceal the original illegal source of their criminal income, would and did use and invest some of the criminal income for the acquisition of interests in other businesses, or Investment Enterprises, including window/glass businesses, valet parking service businesses, and bars\clubs, such as "Club Mirage," a nightclub business located in Tampa, Florida. Thereafter, the Criminal Enterprise members would and did use the proceeds from these other businesses, or Investment Enterprises, for personal matters and for the operation of said other businesses, or Investment Enterprises, such as for improvements and for the payment of other business-related expenses.

31. It was further part of the conspiracy that Criminal Enterprise members would and did force individuals who were illegally dealing in controlled substances in certain areas of New York City to purchase their controlled substances from the Criminal Enterprise and/or to pay a tax to the Criminal Enterprise to operate in said areas.

32. It was further part of the conspiracy that Criminal Enterprise members would and did assault any individuals who attempted to deal in controlled substances in certain areas of New York City who refused to purchase their controlled substances from the Criminal Enterprise and/or to pay a tax to the Criminal Enterprise.

33. It was further part of the conspiracy that Criminal Enterprise members would and did travel from New York City and elsewhere to the Middle District of Florida, the Southern District of Florida, and elsewhere, to commit various crimes involving the threatened and actual use of deadly force and violence.

34. It was further part of the conspiracy that Criminal Enterprise members would and did engage in public acts and displays of violence, including shootings, stabbings, baseball bat beatings, and murder, to create and maintain fear and dread in others.

35. It was further part of the conspiracy that Criminal Enterprise members would and did facilitate the communication and exchange of information between incarcerated Criminal Enterprise members and non-incarcerated members concerning the Criminal Enterprise, its unlawful operations, and its members.

36. It was further part of the conspiracy that Criminal Enterprise members, at times, would and did participate in criminal activity with, or on behalf of, other members or associates of the Gambino Crime Family and/or other criminal organization or group.

37. It was further part of the conspiracy that Criminal Enterprise members would and did transport to the State of New York, the State of New Jersey, the State of Florida, and elsewhere, property obtained by means of illegal activities in the State of New York, the State of New Jersey, the State of Pennsylvania, the State of Florida, and elsewhere.

G. Special Sentencing Allegations

Drug Trafficking

38. During the period of time alleged in Count One of this Indictment, in or around New York City, defendants **JOHN A. BURKE** and **GUY T. PEDEN**, and one or more members of the Criminal Enterprise, including John E. Alite, knowingly and intentionally distributed and possessed with intent to distribute five (5) kilograms or more of a mixture or substance containing a detectable amount of cocaine, a controlled substance, all in violation of Title 21, United States Code, Section 841.

39. During the period of time alleged in Count One of this Indictment, in or around New York City, defendants **JOHN A. BURKE** and **GUY T. PEDEN**, and one or more members of the Criminal Enterprise, including John E. Alite, knowingly and intentionally conspired to distribute and to possess with intent to distribute five (5) kilograms or more of a mixture or substance containing a detectable amount of cocaine, a controlled substance, all in violation of Title 21, United States Code, Section 846.

Murder of Bruce John Gotterup

40. On or about November 20, 1991, in New York City, the defendants, **JOHN A. BURKE** and **GUY T. PEDEN**, together with others, including John E. Alite, with intent to cause the death of Bruce John Gotterup, caused his death, in violation of New York Penal Law Articles 125.25(1) and 20.00.

Murder of John Gebert

41. On or about July 12, 1996, in New York City, the defendants, **JOHN A. BURKE** and **DAVID D'ARPINO**, together with others, including Michael Malone and Pasquale J. Andriano, with intent to cause the death of John Gebert, caused his death, in violation of New York Penal Law Articles 125.25(1) and 20.00.

All in violation of Title 18, United States Code, Section 1962(d).

COUNT TWO

(Murder in Aid of Racketeering Activity - 18 U.S.C. § 1959(a)(1))

1. The Criminal Enterprise, as more fully described above in Count One, constituted an enterprise, as that term is defined in Title 18, United States Code, Section 1959(b)(2).

2. The Criminal Enterprise, through its members and associates, engaged in racketeering activity, as that term is defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), that is, the offenses set forth above in Count One, Section D, Paragraph 21(a) through 21(r), which are incorporated herein by reference.

3. On or about July 12, 1996, for the purpose of maintaining and increasing position in the Criminal Enterprise, an enterprise engaged in racketeering activity,

DAVID D'ARPINO,

defendant herein, along with Criminal Enterprise members Michael Malone and Pasquale J. Andriano, did aid and abet each other and others known and unknown to the Grand Jury, and did unlawfully murder a human being, namely, John Gebert, in violation of New York Penal Law Articles 125.25(1) and 20.00.

All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

COUNT THREE
(Witness Tampering Conspiracy - 18 U.S.C. § 1512(k))

From in or about August 2006, through in or about the spring of 2007, in the Middle District of Florida, and elsewhere,

JAMES V. CADICAMO,

defendant herein, along with others, did knowingly, willfully, and unlawfully combine, conspire, confederate, and agree, together and with each other, and with persons known and unknown to the Grand Jury to violate:

- (a) Title 18, United States Code, Section 1512(a)(1), that is, to kill Michael Malone, a witness, with the intent to prevent the attendance and testimony of Michael Malone in Case No. 8:04-cr-348-T-24TGW, a Federal proceeding held in the Tampa Division of the Middle District of Florida, and with the intent to prevent communication by Michael Malone to a law enforcement officer of the United States relating to the commission and possible commission of a Federal offense; and
- (b) Title 18, United States Code, Section 1512(a)(2), that is, to use physical force against Michael Malone, a witness, with the intent to influence, delay, and prevent the testimony of Michael Malone in Case No. 8:04-cr-348-T-24TGW, a Federal proceeding held in the Tampa Division of the Middle District of Florida, and with the intent to hinder, delay, and prevent communication by Michael Malone to a law enforcement officer of the United States relating to the commission and possible commission of a Federal offense.

All in violation of Title 18, United States Code, Section 1512(k).

COUNT FOUR

(Conspiracy to Retaliate Against a Witness - 18 U.S.C. § 1513(f))

From in or about November 2006, through in or about the spring of 2007, in the Middle District of Florida, and elsewhere,

JAMES V. CADICAMO,

defendant herein, along with others, did knowingly, willfully, and unlawfully combine, conspire, confederate, and agree, together and with each other, and with persons known and unknown to the Grand Jury to violate Title 18, United States Code, Section 1513(b), that is, to knowingly engage in conduct and thereby cause bodily injury to Michael Malone, with the intent to retaliate against Michael Malone for:

- (a) his attendance as a witness in Case No. 8:04-cr-348-T-24TGW, a Federal proceeding held in the Tampa Division of the Middle District of Florida; and for
- (b) providing information relating to the commission and possible commission of a Federal offense to a law enforcement officer.

All in violation of Title 18, United States Code, Section 1513(f).

FORFEITURE

1. The allegations contained in Counts One, Three, and Four of this Indictment are hereby realleged and incorporated by reference herein as though fully set forth for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963, Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2. From their engagement in any and all of the offenses alleged in Count One of this Indictment, in violation of Title 18, United States Code, Section 1962(d),

**JOHN A. BURKE,
JAMES V. CADICAMO,
DAVID D'ARPINO,
MICHAEL D. FINNERTY,
GUY T. PEDEN,**

defendants herein, shall forfeit to the United States, pursuant to the provisions of Title 18, United States Code, Section 1963(a), all of their right, title, and interest in the following:

- (a) any interest the person has acquired or maintained in violation of section 1962;
- (b) any –
 - (1) interest in;
 - (2) security of;
 - (3) claim against; or
 - (4) property or contractual right of any kind affording a source of influence over;any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and
- (c) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

3. Property subject to criminal forfeiture under this section includes –

- (a) real property, including things growing on, affixed to, and found in land; and
- (b) tangible and intangible personal property, including rights, privileges, interests, claims, and securities, and specifically any and all interest in Club Mirage, a nightclub business located at 3605 West Hillsborough Avenue, Tampa, Florida 33614, as well as any licenses or other property held by or for Club Mirage.

4. Pursuant to the provisions of Title 18, United States Code, Section 1963(m), if any of the property described in Section 1963(a) (and paragraphs 2 and 3 above), as a result of any act or omission of the defendants –

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

the court shall order forfeiture of any other property of the defendants up to the value of any property described in paragraphs (a) through (e).

5. From his engagement in any and all of the offenses alleged in Counts Three and Four of the Indictment, in violation of Title 18, United States Code, Sections 1512(k) and 1513(f),

JAMES V. CADICAMO,

defendant herein, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all of his

right, title, and interest in any property constituting and derived from proceeds the defendant obtained directly or indirectly as the result of such violation.

6. If any of the property described in paragraph 5 above, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

A TRUE BILL,

Foreperson

ROBERT E. O'NEILL
United States Attorney


ROBERT T. MONK
Deputy Chief, General Crimes Section
Assistant United States Attorney


JAY G. TREZEVANT
Assistant United States Attorney